

EXHIBIT “S”

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JONG HYON KIM,

Plaintiff,

- against -

WISE COACHES, INC. and TERRY SWANN,

Defendants.
-----X

Civil Action No.:
16-CV-1980

FRCP RULE 26 EXPERT
DISCLOSURE OF DR.
ANDREW M. CASDEN

PLEASE TAKE NOTICE that Defendants/Third Party Plaintiffs WISE COACHES, INC. and TERRY SWANN (hereinafter “Defendants”) by their attorneys, GALLO VITUCCI KLAR, LLP, provide the following disclosure of the medical expert who will testify on Defendants behalf at the trial:

1. Curriculum Vitae of Dr. Andrew M. Casden is annexed hereto as **Exhibit “A.”**
2. Dr. Casden’s report concerning his examination of the plaintiff is annexed hereto as **Exhibit “B.”**
3. In accordance with Rule 26 of the Federal Rules of Civil Procedure, Dr. Casden’s report contains a complete statement of the opinions he will express and the basis and reasons therefore; the facts or data considered by the witness in forming them, to wit, litigation materials; medical records; discussions with the plaintiff; and the results of his physical examination of the plaintiff. Dr. Casden will also provide his expert opinions regarding proof admitted at trial prior to his appearance.
4. Dr. Casden has authored the following publications in the last 10 years:
 - a) Kokoszka A, Kuflik P, Bitan F, Casden AM, Neuwirth M. Evidence-based review of the role of aprotinin in blood conservation during orthopedic

surgery. J Bone Joint Surg Am 2005 May;87(5):1129-36. Review.

- b) Wollowick AL, Casden AM, Kuflik PL, Neuwirth MG. Rheumatoid arthritis in the cervical spine: what you need to know. Am J Orthop 2007 Aug;36(8):400-6. Review.
- c) Gitelman A, Hishmeh S, Morelli BN, Joseph SA Jr, Casden AM, Kuflik P, Neuwirth M, Stephen M. Cauda equine syndrome: a comprehensive review. Am J Orthop 2008;Nov;37(11):556-62. Review.
- d) Joseph SA Jr, Moreno AP, Brandoff J, Casden AM, Kuflik P, Neuwirth MG. Sagittal plane deformity in the adult patient. J Am Acad Orthop Surg 2009 Jun;17(6):378-88. Review.

PEER REVIEWED ORIGINAL CONTRIBUTIONS

- a) Bitan FB, Neuwirth MG, Kuflik PL, Casden AM, Bloom N, Siddiqui S. The use of short and rigid anterior instrumentation in the treatment of idiopathic thoracolumbar scoliosis: a retrospective review of 24 cases. Spine 2002 Jul 15;27(14):1553-7.
- b) Tayyab NA, Mariller MM, Rivlin M, Berekashvili K, Bitan FD, Casden AM, Kuflik P, Neuwirth MG. Efficacy of aprotinin as a blood conservation technique for adult deformity spinal surgery: a retrospective study. Spine 2008 Jul 15;33(16):1775-81.
- c) Joseph SA Jr, Berekashvili K, Mariller MM, Rivlin M, Sharma K, Casden AM, Bitan F, Kuflik P, Neuwirth M. Blood conservation techniques in spinal deformity surgery: a retrospective review of patients refusing blood transfusion. Spine 2008 Oct 1;33(21):2310-5.
- d) Chiappetta G, Wishnek S, Berekashvili K, Persky M, Casden AM, Kuflik P, Neuwirth M. The complication rate in revision cervical surgery using previous surgical incision: A retrospective study. Spine J (Submitted)

INVITED LECTURES/PRESENTATIONS

- a) "Fusion Rates of Patients Treated with rhBMP-2 (Infuse) in Primary Multilevel Posterolateral Lumbar Fusion Surgery." Rivlin M, Mariller MM, Roonprapunt C, Math K, Petchprapa CN, Bitan FD, Casden AM, Neuwirth MG, Kuflik PL. Presented at International Meeting on Advanced Spine Techniques, Athens, Greece, 2006.

- b) "Spinal Deformity Surgery in Patients Refusing Blood Transfusion." Sharma KM, Mariller MM, Casden AM, Bitan F, Kuflik PL, Neuwirth MG. Presented to Scoliosis Research Society, Monterey, USA, 2006 and at International Meeting on Advanced Spine Techniques, Athens, Greece, 2006.
- c) "Efficacy of Aprotinin as a Blood Conservation Technique for Adult Deformity Spinal Surgery: A Retrospective Study." Tayyab NA, Mariller MM, Rivlin M, Casden AM, Bitan F, Kuflik PL, Neuwirth MG. Presented as oral presentation at International Meeting on Advanced Spine Techniques, MDI. Paradise Islands, Bahamas, 2007 and as e-poster at Scoliosis Research Society, Edinburgh, Scotland, 2007.
- d) "Change in Neuroforaminal Dimensions after Lumbar Interbody Fusion." Brandoff J, Berekashvili K, Subramanian N, Kheyfits V, Math K, Casden AM, Kuflik PL, Neuwirth MG. Presentation as e-poster at 15th International Meeting on Advanced Spine Techniques, Hong Kong, Hong Kong, July 2008.
- e) "Incidence of Stress Fracture after Lumbar Fusion." Joseph SA Jr., Berekashvili K, Casden AM, Kuflik PL, Neuwirth MG. Presentation as e-poster 15th International Meeting on Advanced Spine Techniques, Hong Kong, Hong Kong, July 2008.
- f) "Sexual function in Men and Women after Lumbar Fusion Surgery for Low Back Pain." Morelli B, Wishnek S, Casden AM, Kuflik PL, Neuwirth MG. Presented at the Spine Institute's 14th Annual Fellows Conference, New York, New York. April 30th 2009.
- g) "Change in Neuroforaminal Dimensions after ALIF vs. TLIF." Cuartas E, Morelli B, Wishnek S, Casden AM, Kuflik PL, Neuwirth MG. Presented at the Spine Institute's 14th Annual Fellows Conference, New York, New York. April 30th 2009.
- h) "Change in Neuroforaminal Dimensions after ALIF vs. TLIF." Cuartas E, Morelli B, Wishnek S, Casden AM, Kuflik PL, Neuwirth MG. Presented at the International Meeting on Advanced Spine Techniques, Vienna, Austria, July 2009.
- i) "Preoperative Vitamin K to Minimize Scoliosis Operative Blood Loss." Hishmeh S, Wishnek S, Casden AM, Kuflik PL, Neuwirth MG. Presented at the Spine Institute's 15th Annual Fellows Conference, New York, New York. April 29th 2010.

j) "Effect of BMI on Outcome and Complication Rate after Spine Surgery." Yaghoobian A, Wishnek S, Casden AM, Kuflik PL, Neuwirth MG. Presented at the Spine Institute's 16th Annual Fellows Conference, New York, New York. April 28th 2011.

k) "Cases of Lumbosacral Junction: Trials and Tribulations." Casden AM, Kuflik PL, Neuwirth MG. Presented at the Spine Institute's 17th Annual Fellows Conference, New York, New York. April 26th 2012.

5. Cases in which Dr. Casden has testified include, but is not limited to, the following:

- a. Richard Evans v. Yonkers Contracting- New York Supreme Court , County of New York Index number 107866/2009
- b. Michelle Brown v. URS- New York Supreme Court , County of Queens Index number 12091/11
- c. Jason Diaz v. HCZ-Promise LLC et. al. Claim # P220- index number unknown
- d. Dominicano Rodriquez v. Cowan Systems LLC and Stephen Wayne Johnson- United States District Court- Southern District of the State of New York Docket no. 14 Civ. 8428
- e. Carlos Tapia v. Cowan Systems , LLC, Juan Aguilar, C and S Wholesale Grocers Inc. - United States District Court- Eastern District of the State of New York Docket no. 1:14-cv-07271
- f. Rachel Everle v Robert Boeschl et. al. - index number unknown
- g. Jose Bauta v Greyhound Lines, Inc. - United States District Court- Eastern District of the State of New York Docket no. No. 14-CV-3725 deposition.

6. Compensation to be paid for the examination and for appearance at trial is as follows:

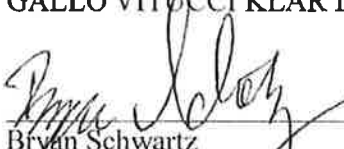
- Independent Medical Exam- \$10,000.00
- Trial Preparation, Telephone Discussion- \$650.00
- Trial Testimony- \$15,000/day

Dated: New York, New York
April 13, 2017

Respectfully submitted,

GALLO VITUCCI KLAR LLP

BY:


Bryan Schwartz
Attorneys for Defendants
90 Broad Street, 3rd Floor
New York, New York 10004
(212) 683-7100
Our File No.: NI 2015-7

TO: ANDREW PARK P.C.
Attorneys for Plaintiff
JONG HYON KIM
450 Seventh Avenue, Suite 1805
New York, New York 10123
(212) 239-3680

EXHIBIT “A”

**CURRICULUM VITAE
ANDREW M. CASDEN, M.D.**

Feb 2016

Office Address- 5 E 98th St. 4th Floor
New York City, NY 10029

222 Westchester Ave. Suite 308
West Harrison, NY 10604

Home Address- 46 Harvest Dr.
Scarsdale NY 10583

Email- acasdenmd@gmail.com

Web site- www.acasdenmd.com

Cell phone- 914-522-5606

HOSPITAL APPOINTMENTS

1/2013- Present	Associate Professor of Orthopaedic Surgery Co-Director, Spine Fellowship Department of Orthopaedics Mount Sinai School of Medicine New York, NY
1/2013-Present	Attending Orthopaedic Spinal Surgeon Mount Sinai Hospital New York, NY
1/1999 – 2012	Assistant Professor of Orthopedic Surgery Albert Einstein College of Medicine Bronx, NY
1/1998 – 2012	Associate Director, Spine Institute Beth Israel Medical Center New York, NY
6/1989 – 12/1998	Chief of Spine Service, Department of Orthopaedics Mount Sinai Medical Center New York, NY
7/1989 – 1/1998	Assistant Professor of Orthopaedic Surgery Mount Sinai School of Medicine New York, NY
1/1994 – 12/1998	Assistant Professor of Neurosurgery

Andrew M. Casden, MD
Curriculum Vitae

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Mount Sinai School of Medicine
New York, NY

EDUCATION

9/1975 – 5/1977	Hamilton College Clinton, NY
9/1977 – 5/1979	B.A., School of Arts and Sciences Cornell University Ithaca, NY
9/1979 – 5/1983	M.D., Cornell University Medical College New York, NY

POST DOCTORAL TRAINING

7/1983 – 6/1984	Internship General Surgery The New York Hospital-Cornell Medical Center New York, NY
7/1984 – 6/1988	Residency Orthopaedic Surgery Hospital for Joint Diseases Orthopaedic Institute New York, NY

FELLOWSHIP IN SPINE SURGERY

7/1988 – 6/1989	The Chicago Spine Fellowship Rush Presbyterian - St. Luke's Medical Center Chicago, Illinois Ronald L. DeWald, M.D. Director, Section of Spine Surgery
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LICENSE AND CERTIFICATION

Andrew M. Casden, MD
Curriculum Vitae

3

License to Practice

7/1984 State of New York
License #158556

Certification

7/1984 Diplomate
National Board of Medical Examiners

1/1991 Diplomate
American Board of Orthopaedic Surgery

1/2002 Recertification
American Board Orthopaedic Surgery

1/2011 Recertification
American Board Orthopaedic Surgery

AWARDS AND HONORS

7/1988 Albert M. Betcher Award presented for
superior service during Orthopaedic Residency
Hospital for Joint Diseases Orthopaedic Institute, New York, NY

6/1992 Physician of the Year
Department of Nursing
Mount Sinai Medical Center, New York, NY

6/2002, 6/2005, 6/2006 Best Doctor In New York
6/2007, 5/2008, 6/2009 Orthopaedic Surgery
6/2011 New York Magazine

2006 America's Top Surgeons
Guide to America's Top Surgeons
Consumers' Research Council of America

1/2010, 2/2011, 2/2012 New York Metro Area Top Doctor
2/2013 Orthopaedic Surgery
Castle Connolly Medical Ltd.

Andrew M. Casden, MD
Curriculum Vitae

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2012,2013

Top Doctor – 10 years
Orthopaedic Surgery
A New York Metro Area Top Doctor for 10 Years
Castle Connolly Medical Ltd.

OTHER PROFESSIONAL ROLES

2/1993

American Academy of Orthopaedic Surgeons

10/1994

American Spinal Injury Association

6/1994

North American Spine Society

5/1995

Scoliosis Research Society – Candidate Fellow

1/1995 – 1/1998

American Academy of Orthopaedic Surgeons
Committee On Evaluations

3/2001

Scoliosis Research Society – Active Fellow

EXHIBIT “B”



Andrew M. Casden, M.D.
Associate Professor
Orthopaedic Spine Surgery
Leni & Peter W. May
Department of Orthopaedic Surgery
The Mount Sinai Medical Center

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New York, NY 10029

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T 212-241-1073
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April 12, 2017

Bryan Schwartz
Gallo, Vitucci, Klar LLP
90 Broad Street
New York, NY 10004

Re: Jong Hyoun Kim v Wise Coach
DATE OF LOSS: August 8, 2015

Dear Mr. Schwartz:

I had the opportunity to perform an independent medical evaluation and review of medical records regarding Jong Hyoun Kim. Mr. Kim was seen in my office on March 28, 2017 at approximately 4:00 p.m. A driver's license was presented for identification purposes, and a translator was present. His date of birth was noted to be August 25, 1955, and he was 61 years old.

Mr. Kim reported to me that on August 8, 2015, his car was stopped, and he was hit from behind by a bus. He was wearing his seat belt at the time, and he was the driver of the vehicle. He was hit from behind on the side of the car and was able to drive his car away. There were no air bags that deployed. He did not seek medical help that day. No ambulance was called to the scene. At the time of the accident, he had some midback pain but no complaints of neck pain or lower back pain. He had no lower extremity pain.

Mr. Kim reported to me that he had no prior history of neck or lower back problems. He noted that he did not have an MRI prior to the accident of August 8, 2015. At the time of the accident, he was working as a driver, and it was just at the end of the work day. He was able to drive home. He went back to work approximately one week after the accident and is currently driving eight to ten hours per day.

Mr. Kim told me that on February 8, 2016, he was involved in another vehicle accident when he was the driver of a vehicle. No air bags deployed, and no ambulance was called. He said he had the onset of increased pain in his lower

RE: Jong Hyoun Kim
April 2, 2017
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back following the second accident, but his neck pain was unchanged. He said he had no change in his neck symptoms following the accident of February 8, 2016.

Following the accident of August 8, 2015, he began experiencing pain in the right shoulder, neck pain, and lower back pain. The neck and the lower back pain started approximately one week following the accident. He did have some midback pain following the accident of August 8, 2015 at the time of the accident. The pain in the cervical region continued to increase following the accident. He tried conservative measures without improvement. He eventually underwent cervical spinal surgery by Dr. Lattuga. This was performed on January 26, 2017. Following the surgery, he had some improvement with his cervical symptoms but not much. He did have some improvement and some numbness and tingling sensation into the upper extremity. He had experienced some numbness in the upper extremities following the accident, but this did not begin until approximately one month following the accident of August 8, 2015.

Mr. Kim has not had any lower back surgery. He complains of pain in the lower back, which is occasional, and he has no lower extremity symptoms. Currently, the low back he describes as a 3 to 4/10. He does not do any physical therapy at this time.

Currently with regard to the cervical spine, he says the pain is about a 5/10 and daily. He does get some numbness of the arms at times. The neck pain is better following the surgery than it was prior to the surgery. He still does get some numbness of the arms but better than preoperatively. He takes no pain medications at this time. He feels that things are still continuing to improve although slowly.

Mr. Kim told me that he can sit for 15 minutes; standing is at about 20 minutes and walking for 20 to 30 minutes.

On examination, he has an anterior cervical discectomy scar. His range of motion in the lumbar spine is excellent with 70 degrees of flexion, 30 degrees of extension without pain. Cervical motion revealed 80 degrees of flexion, chin almost to his chest, extension of about 30 degrees, and left and right rotation of approximately 45 degrees. His detailed neurological evaluation reveals full motor strength in all muscle groups of the upper and lower extremities. He has 5/5 strength. He has no long tract findings. He clearly was not in any pain in the examining room. Reflexes were 1+, equal and symmetric. Sensation was intact and normal. He moved quickly about the exam room, and when he went to pick up his coat, he did so without any hesitation. His gait was noted to be normal. He clearly demonstrated no signs of any pain during my examination.

I had the opportunity to review extensive medical records regarding Mr. Kim. Police accident report dated August 8, 2015 reveals that his car was struck by

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another vehicle while it was parked. A picture from the vehicle shows damage to the rear bumper on the left side.

Chiropractic reports from Jaeho Shin Chiropractic dated August 10, 2015 revealed that Mr. Kim was complaining of neck pain, upper, lower back pain also. This report notes that the pain began immediately after the accident. These are small circles on a standardized form. It also shows that he was complaining of right-sided pain. The pain circled is a 9/10. These are all check marks and circles regarding all of the complaints. He was begun on a treatment of chiropractic care.

Mr. Kim was also evaluated on August 10, 2015 by Shin Acupuncture. Again, it was noted that he was complaining of neck, midback pain and lower back pain. He was begun on a course of acupuncture treatments.

Mr. Kim was seen by Dr. Yong Tak, a physiatrist on August 14, 2015. Dr. Tak noted he was complaining of pain in the neck, back, shoulders, and right knee. It was noted that he was a 59-year-old male who was involved in a motor vehicle accident on August 8, 2015. He denied loss of consciousness. It was noted that he did not visit and emergency room. He was complaining of neck pain, which was sharp in nature, left worst than right side and aggravated by movement. He complained of pain in the lower back, right side worse than left side. Pain was noted to radiate into the right knee with numbness and tingling sensation in the right foot. His impression was possible cervical and lumbar radiculopathies. He was recommended to start physical therapy, injections as needed. No recommendation was made for MRI scan at the time of the visit with Dr. Tak. No x-rays were taken. He followed again with Dr. Tak for a follow-up visit.

Dr. Tak performed EMG nerve conduction studies, which revealed a left C6 and right S1 radiculopathies.

Mr. Kim was seen at Integrated Pain Management by Dr. Xie. Dr. Xie saw Mr. Kim in consultation on March 7, 2016. It was noted that he was involved in a motor vehicle accident on August 8, 2015 and continued to complain of pain in the cervical and lumbar regions. He was noted to still be having pain despite nonoperative treatment. Dr. Xie performed some injection therapy and also performed transforaminal epidural injections into the lumbar spine. These were done on March 16, 2016. His impression was cervical and lumbar radiculopathies.

Mr. Kim was seen at New York Spine and Pain Care by Dr. David Adlin on June 23, 2016. Dr. Adlin noted that he was complaining of pain in the cervical region with bilateral distribution, worse on the left, radiating through the left arm. It was also noted that he complained of lower back pain. It was noted that he had undergone extensive nonoperative treatment without improvement. Dr. Adlin recommended discography be performed on the cervical spine. This was

RE: Jong Hyoun Kim
April 2, 2017
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performed on November 2, 2016. Discography was positive at C4-5, C5-6 and C6-C7.

Mr. Kim was seen in consultation by Dr. Sebastian Lattuga on January 16, 2017. Dr. Lattuga noted that Mr. Kim continued to complain of cervical pain at that time. He felt that there was instability at C4-C5. He discussed surgical options with Mr. Kim. On January 26, 2017, at New York Presbyterian lower Manhattan, Dr. Lattuga performed an anterior cervical discectomy, fusion and instrumentation at C4-C5, C5-C6. He was seen in postoperative visits by Dr. Lattuga on February 3, 2017 and March 27, 2013. It was noted that he continued to complain of the same pains that he had preoperatively. Dr. Lattuga does not mention the accident of February 8, 2016 in his reports.

I had the opportunity to review radiologic studies regarding Mr. Kim. MRI scan of the cervical spine dated September 22, 2015 was reviewed. The MRI revealed normal C2-C3, degenerative changes at C3-C4 with retrolisthesis of C3 on C4 and a small slight posterior bulge of the disc C4, C4-C5 retrolisthesis bulge mildly impressing the cord. There was noted to be mild central stenosis. At C5-C6, I noted a posterior herniation impinging upon the thecal sac just compressing the spinal cord with central stenosis. There was no evidence of any traumatic injury. There were no fractures, dislocations, or edema. There was noted to be no evidence of any acute injury to the cervical spine. At C6-C7, there was noted to be a posterior midline left-sided herniation without cord compression. The overall impression is multilevel degenerative disease without evidence of any trauma. All of these findings noted are preexisting in nature.

MRI scan of the lumbar spine dated September 22, 2015 was reviewed. This MRI scan revealed a bulge/herniation at L2-L3 to the right of the midline, bulge at L3-L4, bulge at L4-L5, normal L5-S1. These represent minor degenerative changes.

In summary, Mr. Kim was allegedly involved in a minor motor vehicle accident on August 8, 2015. This was a low-energy injury as there was no air bag deployment and no ambulance was called. He did not seek medical help immediately. He was not taken to an emergency room and did not actually seek medical care until at least two days following the accident.

The MRI scans of the cervical and the lumbar spine dated September 22, 2015 reveal preexisting degenerative disease of the cervical and lumbar spine without any evidence of traumatic injury. Clearly, the findings noted on these MRI scans are preexisting degenerative changes without evidence of trauma. Mr. Kim did not sustain any injury to the structure of the cervical or the lumbar spine at the time of the accident of August 8, 2015.

In the examination room, Mr. Kim was in no distress. He moved freely without limitation, and he is currently working full time. He presents no evidence of

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disability at this time. He is not requiring the use of pain medication and not undergoing physical therapy. There appears to be no disability with regard to the cervical or the lumbar spine at this time.

Mr. Kim's subjective complaints of pain are more than any of his objective findings. He has a completely normal neurological evaluation, and he had excellent range of motion. Clearly, he is not significantly limited.

Due to the low index of suspicion of any significant injury to the cervical or lumbar spine, no radiologic studies were performed until September 22, 2015. If there was suspicion of significant injury, I would have expected radiologic studies to have been performed much closer to the accident date of August 8, 2015.

Dr. Lattuga did not mention the accident of February 8, 2016 in his reports. According to the deposition of Mr. Kim dated April 5, 2017 he did not mention to Dr. Lattuga about the accident of February 8, 2016. The accident of February 8, 2016 may be casually related to surgery that was performed on Mr. Kim. Dr. Lattuga does not address this issue.

In summary, Mr. Kim did not sustain any injury to the cervical or lumbar spine at the time of the accident of August 8, 2015. There is no causal relationship between the accident and any of the radiologic findings on the MRI scan of the cervical and lumbar spine dated September 22, 2015. Mr. Kim is not disabled at this time and should be able to continue functioning at a high level like he is at this time.

I, Andrew M. Casden, M.D. being a physician, duly licensed to practice in the state of New York, pursuant to CPLR section 2106, hereby certify and affirm that the above is true and with a reasonable degree of medical certainty under penalties of perjury.

If you have any further questions please do not hesitate to contact me.

Yours truly,

A handwritten signature in cursive script that reads "Andrew M. Casden M.D.".

Andrew M. Casden, M.D.

AMC/lw

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

Melissa Figueroa being duly sworn, deposes and says:

I am not a party to the action, am over 18 years of age and reside in Westchester County. That on the 14th day of April 2017, I served the within **FRCP RULE 26 EXPERT DISCLOSURE OF DR. ANDREW M. CASDEN** on:


ANDREW PARK P.C.
Attorneys for Plaintiff
JONG HYON KIM
450 Seventh Avenue, Suite 1805
New York, New York 10123

those being the addresses designated by said attorneys for that purpose, by depositing a true copy of same enclosed in a post-paid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department.



Melissa Figueroa

Sworn to before me this
14th day of April, 2017



Notary Public

JEANNINE M. DAVANZO
Notary Public, State of New York
No. 02DA6047192
Qualified in Westchester County
Commission Expires August 28, 2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Civil Action No.: 16-CV-1980

JONG HYON KIM,

Plaintiff,

- against -

WISE COACHES, INC. and TERRY SWANN

Defendants.

FRCP RULE 26 EXPERT DISCLOSURE OF DR. ANDREW M. CASDEN

GALLO VITUCCI KLAR LLP

Attorneys for Defendants

90 Broad Street, 3rd Floor

New York, New York 10004

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File No.: NI 2015-7